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or withdrawal is received.

(3) If reimbursement for the plan is sought under the federal Medicare program, and is audited pursuant to the Medicare Program, the nursing facility must provide a copy of Medicare's final audit report, including attachments and exhibits, to the Commissioner within 30 days of receipt by the nursing facility or any related organization. The Department shall implement the audit findings associated with the plan upon receipt of Medicare's final audit report. The Department's authority to implement the audit findings is independent of its authority to conduct a field audit.

F. The Department shall have authority to adopt emergency rules to implement this Section.

**SECTION 6.084. Group health, dental, or life insurance.** For the rate year beginning on July 1, 1998, a group of nursing facilities related by common ownership that self-insures group health, dental or life insurance may allocate its directly identified costs of self-insuring its Minnesota nursing facility workers pursuant to Section 6.083, item D, subitem (7). The method of cost allocation is the same as in Section 6.083, item D, subitem (7). The costs associated with the administration of the group's self-insurance plan must remain classified in the nursing facility's administrative cost category. A written request of the nursing facility group's election to use this alternate method of allocation of self-insurance costs must be received by the Department no later than May 1, 1998, to take effect on July 1, 1998, or such costs will continue to be allocated under the existing cost allocation methods. Once a nursing facility group elects this method of cost allocation for its group health, dental, or life insurance self-insurance costs, it remains in effect until such time as the group no longer self-insures these costs.

**SECTION 6.090 Real estate taxes and special assessments.** Real estate taxes and special assessments for each nursing facility are to be reported in the real estate taxes and special assessments cost category. In addition, payments made in lieu of real estate taxes, unless such payments were made under a legally enforceable irrevocable written contract entered into prior to August 31, 1983, must be reported in this cost category.

## **SECTION 7.000 ESTABLISHMENT OF GEOGRAPHIC GROUPS**

**SECTION 7.010 Classification process.** The Commissioner shall classify Minnesota nursing facilities according to their geographic location.

**SECTION 7.020 Group 1.** All nursing facilities in Beltrami, Big Stone, Cass, Chippewa, Clearwater, Cottonwood, Crow Wing, Hubbard, Jackson, Kandiyohi, Lac Qui Parle, Lake of the Woods, Lincoln, Lyon, Mahanomen, Meeker, Morrison, Murray, Nobles, Pipestone,

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Redwood, Renville, Rock, Swift, Todd, Yellow Medicine, and Wadena counties must be placed in geographic group 1.

**SECTION 7.030 Group 2.** All nursing facilities in counties other than the counties listed in group 1 and group 3 must be placed in geographic group 2.

**SECTION 7.040 Group 3.** All nursing facilities in Aitkin, Anoka, Carlton, Carver, Cook, Dakota, Hennepin, Itasca, Koochiching, Lake, Ramsey, St. Louis, Scott, and Washington counties must be placed in geographic group 3.

**SECTION 7.050 Exception.** Facilities in geographic Group 1 (lowest cost) may have their rates calculated based on the highest of the limits within Group 2 (middle cost) or Group 1. This exception is granted if it is to the facility's benefit and is done automatically at the time of ratesetting. In the event an exception is granted, efficiency payments are based on Group 1 limits.

## **SECTION 8.000 DETERMINATION AND ALLOCATION OF FRINGE BENEFITS AND PAYROLL TAXES, FOOD COSTS, AND DIETICIAN CONSULTING FEES**

**SECTION 8.010 Fringe benefits and payroll taxes.** Fringe benefits and payroll taxes must be allocated to case mix, other care-related costs, and other operating costs according to items A to E.

A. For the rate years beginning on or after July 1, 1988, all of the nursing facility's fringe benefits and payroll taxes must be classified to the operating cost categories, based on direct identification. If direct identification cannot be used for all the nursing facility's fringe benefits and payroll taxes, the allocation method in items B to E must be used.

B. Fringe benefits and payroll taxes must be allocated to case mix operating costs in the same proportion to salaries reported under the nursing service category.

C. Fringe benefits and payroll taxes must be allocated to other care-related costs in the same proportion to salaries reported under the other care-related services category.

D. Fringe benefits and payroll taxes must be allocated to other operating costs in the same proportion to salaries reported under dietary, laundry and linen, housekeeping, plant operation and maintenance services, and the general and administrative categories.

E. For any nursing facility that cannot separately report each salary component of an operating cost category, the Department shall determine the fringe benefits and payroll taxes to be allocated under this subpart according to the following:

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(1) The Department shall sum the allowable salaries for all nursing facilities separately reporting allowable salaries in each cost category, by cost category and in total.

(2) The Department shall determine the ratio of the total allowable salaries in each cost category to the total allowable salaries in all cost categories, based on the totals in subitem (1).

(3) The nursing facility's total allowable fringe benefits and payroll taxes must be multiplied by each ratio determined in subitem (2) to determine the amount of payroll taxes and fringe benefits allocated to each cost category for the nursing facility under this item.

(4) If a nursing facility's salary for any nursing, dietary, laundry, housekeeping, plant operation and maintenance, other care-related services and general and administrative operating cost categories, is zero and the services provided to the nursing facility in that operating cost category are not performed by a related organization, the nursing facility must reclassify one dollar to a salary cost line in the operating cost category.

For rate years beginning on or after July 1, 1989, the Department shall include a nursing facility's reported public employee retirement act contribution for the reporting year as apportioned to the care-related operating cost categories multiplied by the appropriate composite index.

**SECTION 8.020 Determination of food costs.** The Department shall determine the costs of food to be included in other care-related costs according to items A and B.

A. For any nursing facility separately reporting food costs, food costs shall be the allowable food costs as reported under the dietary services cost category.

B. For any nursing facility that cannot separately report the cost of food under the dietary services cost category, the Department shall determine the average ratio of food costs to total dietary costs for all nursing facilities that separately reported food costs. The nursing facility's total allowable dietary costs must be multiplied by the average ratio to determine the food costs for the nursing facility.

For rate years beginning on or after July 1, 1987 the Department shall adjust the rates of a nursing facility that meets the criteria for the special dietary needs of its residents. The adjustment for raw food cost shall be the difference between the nursing facility's allowable historical raw food cost per diem and 115 percent of the median historical allowable raw food cost per diem of the corresponding geographic group.

**SECTION 8.030 Determination of dietician consulting fees.** The Department shall determine the dietician consulting fees to be included in other care-related costs according to

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items A and B.

A. For any nursing facility separately reporting dietician consulting fees, the dietician consulting fees shall be the allowable dietician consulting fees reported under the dietary services cost category.

B. For any nursing facility that has not separately reported dietician consulting fees, the Department shall determine the average cost per licensed bed of allowable dietician consulting fees for all nursing facilities that separately reported dietician consulting fees. The nursing facility's total number of licensed beds must be multiplied by the average cost per bed to determine the dietician consulting fees for the nursing facility.

#### **SECTION 9.000 DETERMINATION OF THE ALLOWABLE HISTORICAL OPERATING COST PER DIEMS**

**SECTION 9.010 Review and adjustment of costs.** The Department shall annually review and adjust the operating costs reported by the nursing facility during the reporting year preceding the rate year to determine the nursing facility's actual allowable historical operating costs.

**SECTION 9.020 Standardized resident days.** Each nursing facility's standardized resident days must be determined in accordance with items A to B.

A. The nursing facility's resident days for the reporting year in each resident class must be multiplied by the weight for that resident class.

B. The amounts determined in item A must be summed to determine the nursing facility's standardized resident days for the reporting year.

**SECTION 9.030 Allowable historical case mix operating cost standardized per diem.** Until July 1, 1999, the allowable historical case mix operating cost standardized per diem must be computed by the standardized resident days determined in Section 9.020.

**SECTION 9.040 Allowable historical other care-related operating cost per diem.** Until July 1, 1999, the allowable historical other care-related operating cost per diem must be computed by dividing the allowable historical other care-related operating costs by the number of resident days in the nursing facility's reporting year.

**SECTION 9.050 Allowable historical other operating cost per diem.** Until July 1, 1999, the allowable historical other operating cost per diem must be computed by dividing the allowable historical other operating costs by the number of resident days in the nursing facility's reporting year.

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## **SECTION 10.000 DETERMINATION OF OPERATING COST ADJUSTMENT FACTORS AND LIMITS**

**SECTION 10.010 Annual adjustment factors through June 30, 1999.** The annual adjustment factors will be determined according to items A and C.

A. The forecasted consumer price index for a nursing facility's allowable operating cost per diems shall be determined using Data Resources, Inc. forecast for the change in the nursing facility market basket between the mid point of the reporting year and the mid point of the rate year. For these purposes, the indices as forecasted by Data Resources, Inc. in the fourth quarter of the calendar year preceding the rate year will be utilized.

B. For rate years beginning on or after July 1, 1994, the Department will index the prior year's operating cost limits by the percentage change in the Data Resources, Inc., nursing home market basket between the midpoint of the current reporting year and the midpoint of the previous reporting year. The Department will use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the calendar year preceding the rate year.

C. For the nine month rate period beginning October 1, 1992, the 21-month inflation factor for operating costs in item B shall be increased by an annualization of seven-tenths of one percent rounded to the nearest tenth percent.

**SECTION 10.020 Base year limits.** Until July 1, 1999, for each geographic group the base year operating costs limits must be determined according to items A to E and B. No redetermination of the base year operating costs limits shall be made due to audit adjustments or appeal settlement. For purposes of this section, a new base year is established for the rate year beginning July 1, 1992, and July 1, 1993.

A. ~~The Department shall compute 125 percent of the median of the array of the allowable historical case mix operating cost standardized per diems for the new base year.~~  
The adjusted care-related limits must be indexed as in Sections 11.010 and 11.020. The adjusted other operating cost limits must be indexed as in Sections 11.030 and 11.040.

B. ~~The Department shall compute 125 percent of the median of the array of the allowable historical other care-related operating cost per diems for the new base year. For the purpose of establishing operating cost limits, the Department shall compute the allowable historical other care-related per diems for the new base year by dividing the allowable historical other care-related operating costs by the greater of resident days or 90 percent of the number of licensed beds multiplied by the number of days in the reporting period. An exception to this calculation is made for a short length of stay facility. "Short length of stay" is defined as 180 days or less. For a short length of stay facility, the allowable historical other care-related operating costs must be divided by the greater of resident days or 80 percent of the~~

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~~number of licensed beds multiplied by the number of days in the reporting period.~~

~~C. The total care-related operating cost limit for each resident class must be determined by multiplying the amount determined in item A by the weight for each resident class and adding the amount determined in item B. The total care-related operating cost limit for a short length of stay facility must be 125 percent of the total care-related operating cost limit. A nursing facility licensed on June 1, 1983, by the Department to provide residential services for the physically handicapped is exempt from the total care-related operating cost limit.~~

D. The Department shall disallow any portion of the general and administrative cost category, exclusive of fringe benefits and payroll taxes, that exceeds the percent of the allowable expenditures in all operating cost categories except fringe benefits, payroll taxes, and general and administrative as in subitems (1) to (3). For the purpose of computing the amount of disallowed general and administrative cost, the nursing facility's professional liability and property insurance must be excluded from the general and administrative cost category. For purposes of this item, the term property insurance means general liability coverage for personal injury incurred on the nursing facility property and coverage against loss or damage to the building, building contents, and the property of others on the premises of the nursing facility. Property insurance does not include any coverage for items such as automobiles, loss of earnings, and extra expenses.

(1) If the nursing facility's licensed beds exceed 195 licensed beds, the general and administrative cost category limitation shall be 13 percent.

(2) If the nursing facility's licensed beds are more than 150 licensed beds, but less than 196 licensed beds, the general and administrative cost category limitation shall be 14 percent; or

(3) If the nursing facility's licensed beds is less than 151 licensed beds, the general and administrative cost category limitation shall remain at 15 percent.

~~E. The other operating cost limit must be determined in accordance with subitems (1) to (5). For the purpose of establishing operating cost limit, the Department shall compute the allowable historical other operating costs per diems for the new base year by dividing the allowable historical other operating costs by the greater of resident days or 90 percent of the number of licensed beds multiplied by the number of days in the reporting period. An exception to this calculation is made for a short length of stay facility. For a short length of stay facility, the allowable historical other operating costs must be divided by the greater of resident days or 80 percent of the number of licensed beds multiplied by the number of days in the reporting period.~~

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~~(1) For each of the three geographic groups the Department shall group all hospital attached nursing facilities, short length of stay facilities, and nursing facilities licensed on June 1, 1983, by the Department to provide residential services for the physically handicapped.~~

~~(2) The other operating cost limit for hospital attached nursing facilities in each geographic group must be 105 percent of the median of the array of the allowable historical other operating cost per diem for each nursing facility in the group established under subitem (1) in the new base year.~~

~~(3) The other operating cost limit for all short length of stay facilities and nursing facilities licensed on June 1, 1983, by the Department to provide residential services for the physically handicapped in each geographic group must be 105 percent of the limit established in subitem (2).~~

~~(4) For each geographic group the Department shall group all nursing facilities not included in subitem (1).~~

~~(5) The other operating cost limit for each group established in subitem (4) must be 110 percent of the median of the array of the allowable historical other operating cost per diems for each nursing facility in the group for the new base year.~~

**SECTION 10.030 Indexed limits.** Until July 1, 1999, the total care related operating cost limit and the other operating cost limit must be determined under items A and B.

A. ~~The total care related operating cost limit must be determined under subitems (1) and (2).~~

~~(1) The annual adjustment factor for case mix and other care related operating costs for the current reporting year as determined in Section 10.010 must be divided by the corresponding annual adjustment factor for the previous reporting year.~~

~~(2) The limit for each resident class in Section 10.020, item C, must be multiplied by the amount determined in subitem (1) to establish the indexed other operating cost limit.~~

B. ~~The total other operating costs limit must be determined under subitems (1) and (2).~~

~~(1) The annual adjustment factor for other operating costs for the current reporting year as determined in Section 10.010, item B, subitem (4), must be divided by the corresponding annual adjustment factor for the previous reporting year.~~

~~(2) Each limit in Section 10.020, item E must be multiplied by the amount determined in subitem (1) to establish the indexed other operating cost limit.~~

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## **SECTION 11.000 DETERMINATION OF OPERATING COST PAYMENT RATE**

**SECTION 11.010 Nonadjusted case mix and other care-related payment rate.** Until July 1, 1999, for each nursing facility, the nonadjusted case mix and other care-related payment rate for each resident class must be determined according to items A to D.

A. The nursing home's allowable historical case mix operating cost standardized per diem must be multiplied by the weight for each resident class.

B. The allowable historical other care-related operating cost per diem must be added to each weighted per diem established in item A.

C. If the amount determined in item B for each resident class is below the limit for that resident class and group item C, the nursing facility's nonadjusted case mix and other care-related payment rate must be the amount determined in item B for each resident class.

D. If the amount determined in item B for each resident class is at or above the limit for that resident class and group, the nursing facility's nonadjusted case mix and other care-related payment rate must be set at the limit.

**SECTION 11.020 Adjusted prospective case mix and other care-related payment rate.** Until July 1, 1999, for each nursing facility, the adjusted prospective case mix and other care-related payment rate for each resident class must be the nonadjusted case mix and other care-related payment rate multiplied by the case mix and other care-related adjustment factor. If the nursing facility is eligible to receive the phase-in Section 11.070, the phase-in reduced by the amount of the efficiency incentive, if any, must be added to the adjusted prospective case mix and other care-related payment rate.

**SECTION 11.030 Nonadjusted other operating cost payment rate.** Until July 1, 1999, the nonadjusted other operating cost payment rate must be determined according to items A and B.

A. If the allowable historical other operating cost per diem is below the limit for that group the nursing facility's nonadjusted other operating cost payment rate must be the allowable historical other operating cost per diem.

B. If the allowable historical other operating cost per diem is at or above the limit for that group the nursing facility's nonadjusted other operating cost payment rate must be set at that limit.

**SECTION 11.040 Adjusted prospective other operating cost payment rate.** The adjusted prospective other operating cost payment rate must be determined according to items A to E.



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A. Except as provided in item B, if the nursing facility's nonadjusted other operating cost payment rate is below the limit for that group, the nursing facility's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in Section 11.030, item A, multiplied by the other operating cost adjustment factor plus, for the rate years before July 1, 1999, an efficiency incentive equal to the difference between the limit in Section 9.020, item E other operating cost limits in each geographic group and the nonadjusted other operating cost payment rate in Section 11.030, up to the maximum set forth in Section 11.045, item D.

B. For any short length of stay facility and any nursing facility licensed on June 1, 1983 by the Department to provide residential services for the physically handicapped that is under the limits, the nursing facility's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in Section 11.030, item A, multiplied by the other operating cost adjustment factor determined in Section 10.010, item B, plus, for the rate years before July 1, 1999, an efficiency incentive equal to the difference between the limit in Section 10.020, item E, subitem (2) other operating cost limits for hospital attached nursing facilities in each geographic group, and the nonadjusted other operating cost payment rate in Section 11.030, up to the maximum set forth in Section 11.045, item D.

C. If the nursing facility's nonadjusted other operating cost payment rate is at or above the limit for that group, the nursing facility's adjusted prospective other operating cost payment rate must be the nonadjusted other operating cost payment rate determined in Section 11.030, item B, multiplied by the other operating cost adjustment factor determined in Section 10.010, item B.

**SECTION 11.042 Efficiency incentive reductions for substandard care.** For rate years beginning on or after July 1, 1991, the efficiency incentive established in Section 11.045, item D, shall be reduced or eliminated for nursing facilities determined by the Commissioner of health to have uncorrected or repeated violations which create a risk to resident care, safety, or rights, except for uncorrected or repeated violations relating to a facility's physical plant. Upon being notified by the Commissioner of health of uncorrected or repeated violations, the Commissioner of human services shall require the nursing facility to use efficiency incentive payments to correct the violations. The Commissioner of human services shall require the nursing facility to forfeit efficiency incentive payments for failure to correct the violations. Any forfeiture shall be limited to the amount necessary to correct the violation.

**SECTION 11.045 Changes to nursing facility reimbursement beginning July 1, 1995.** The nursing facility reimbursement changes in items A through F shall apply, in the sequence specified, beginning July 1, 1995.

A. For rate years beginning on or after July 1, 1995, the nursing facility's allowable operating per diem for each case mix category for each rate year shall be limited as described

in subitems (1) to (3).

(1) For the rate year beginning July 1, 1995, nursing facilities shall be divided into two groups, freestanding and nonfreestanding, within each geographic group. A nonfreestanding nursing facility is a nursing facility whose other operating cost per diem is subject to the limits contained in Sections 19.025, 19.030, or 19.035. All other nursing facilities shall be considered freestanding nursing facilities. All nursing facilities in each grouping will be arrayed by their allowable case mix A operating cost per diem.

In calculating a nursing facility's operating cost per diem for this purpose, the raw food cost per diem related to providing special diets that are based on religious beliefs, as determined in Section 8.020, shall be excluded.

For those nursing facilities in each grouping whose case mix A operating cost per diem:

(a) is at or below the median minus 1.0 standard deviation of the array, the nursing facility's allowable operating cost per diem for each case mix category shall be limited to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor as established in item E, subitem (2), increased by six percentage points, or the current reporting year's corresponding allowable operating cost per diem;

(b) is between minus .5 standard deviation and minus 1.0 standard deviation below the median of the array, the nursing facility's allowable operating cost per diem for each case mix category shall be limited to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor as established in item E, subitem (2), increased by four percentage points, or the current reporting year's corresponding allowable operating cost per diem; or

(c) is equal to or above minus .5 standard deviation below the median of the array, the nursing facility's allowable operating cost per diem for each case mix category shall be limited to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor as established in item E, subitem (2), increased by three percentage points, or the current reporting year's corresponding allowable operating cost per diem.

(2) For the rate year beginning on July 1, 1996, the nursing facility's allowable operating cost per diem for each case mix category shall be limited to the lesser of the prior reporting year's allowable operating cost per diems plus the inflation factor as established in item E, subitem (2), increased by one percentage point, or the current reporting year's corresponding allowable operating cost per diems; and

(3) For rate years beginning on or after July 1, 1997, the nursing facility's allowable operating cost per diem for each case mix category shall be limited to the lesser of